

Message Text

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ORIGIN L-03

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DRAFTED BY L/OES/MEHOINKES:SCH
APPROVED BY L/OES - RONALD J. BETTAUER
OES/OFA - MR. ZUCCA
ARA/AND - MS. PATERSON (SUBS)
L/OES - MR. COLSON

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O R 271423Z JUN 77
FM SECSTATE WASHDC
TO AMEMBASSY CARACAS IMMEDIATE
INFO USMISSION USUN NEW YORK

UNCLAS STATE 148861

USUN FOR MR. OXMAN, LOS DEL.

E.O. 11652: N/A

TAGS: EFIS, PFOR, VE

SUBJECT: U.S. - GOV GIFA

REF: CARACAS 6320

1) FOLLOWING ARE COMMENTS REQUESTED REFTEL.
2) A. ARTICLE VIII, PARA. 3, AND ARTICLE IX ARE NOT
DUPLICATIVE. ARTICLE VIII, PARA. 3, PROVIDES FOR OBSERV
RS
WHO WILL MONITOR FISHING ACTIVITIES FROM SCIENTIFIC/BIO-
LOGICAL POINT OF VIEW. SUCH OBSERVERS, WHILE BY VIRTUE OF
THEIR PRESENCE AND MONITORING AND REPORTING RESPONSIBILITIES
WILL EXERCISE A QUASI ENFORCEMENT ROLE, ARE NOT ENFORCE-
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MENT OFFICERS. ARTICLE IX DEALS STRICTLY WITH COAST GUARD
AND NATIONAL MARINE FISHERIES SERVICE SPECIAL AGENTS CARRY-
ING OUT ENFORCEMENT ACTIVITIES.

B. NATURE OF AGENTS REQUIRED BY ARTICLE VIII, PARA 4,
TO BE APPOINTED AND MAINTAINED IN U.S. IS NOT SPECIFIED,

BUT LEFT TO DISCRETION OF COUNTRY, ONLY CONDITION BEING THAT AGENTS BE DULY AUTHORIZED TO RECEIVE AND RESPOND TO LEGAL PROCESS. DESIGNATION OF COUNSELOR OFFICER AS AGENT POSSIBLE, BUT NOT PRACTICAL IN LIGHT OF PROBLEMS OF DIPLOMATIC IMMUNITY. COMMERCIAL SHIPPING AGENTS, OR LEGAL COUNSEL HAVE BEEN DESIGNATED AS AGENTS BY MOST COUNTRIES ENTERING INTO GIFA. NUMBER AND LOCATION LEFT TO COUNTRIES DISCRETION.

C. IT IS ASSUMED THAT QUESTION RAISED PARA 4C OF REF (A) REGARDING POTENTIAL CONFLICT OF ARTICLE X WITH LOS TREATY REFERS TO PART II, ARTICLE 61 OF RSNT AND POSSIBILITY OF IMPRISONMENT FOR FISHERIES VIOLATION UNDER FISHERY CONSERVATION AND MANAGEMENT ACT (FCMA). THE FCMA PROVIDES, INTER ALIA, FOR IMPOSITION OF CRIMINAL PENALTIES INCLUDING IMPRISONMENT, FOR SPECIFIED VIOLATIONS. IT SHOULD BE NOTED, HOWEVER, THAT SECTION 401 OF FCMA PROVIDES THAT IF THE U.S. RATIFIES A LOS TREATY, THE SECRETARY OF COMMERCE, AFTER CONSULTATION WITH SECRETARY OF STATE, MAY PROMULGATE ANY AMENDMENT TO FISHERIES REGULATIONS, PROMULGATED PURSUANT TO FCMA NECESSARY TO CONFORM SUCH REGULATIONS TO LOS TREATY. DEPARTMENT POSITION, AS INDICATED IN ARTICLE X, PARA 3 OF GIFA, IS OPPOSED TO IMPRISONMENT AS PENALTY FOR VIOLATION OF FISHERY REGULATIONS AND AS ARTICLE X, PARA 3 STATES, WE ARE WILLING TO UNDER-TAKE TO RECOMMEND TO COURT THAT PENALTY FOR FISHERIES VIO-UNCLASSIFIED

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LATIONS NOT INCLUDE IMPRISONMENT. THIS DOES NOT APPLY, HOWEVER, TO VIOLATIONS OTHER THAN PURELY FISHERIES VIOLATIONS, E.G., RESISTING ARREST.

D. ARRANGEMENTS FOR COOPERATION PROVIDED FOR IN ARTICLE XI, PARAS 1 AND 2 OF GIFA WOULD BE MADE BETWEEN DEPARTMENT OF COMMERCE (NATIONAL MARINE FISHERIES SERVICE OF NOAA) AND APPROPRIATE AGENCY OF VENEZUELAN GOVERNMENT.

E. CONSULTATIONS PROVIDED FOR IN ARTICLE XII WOULD BE CARRIED OUT ON TECHNICAL AND/OR DIPLOMATIC LEVEL AS APPROPRIATE, NORMALLY INDICATED THROUGH DIPLOMATIC CHANNELS.

F. EMBASSY INTERPRETATION OF ARTICLE XIV ESSENTIALLY CORRECT. ARTICLE XIV IS A GENERAL DISCLAIMER, PROVIDING THAT THE POSITION OF THE PARTIES WITH RESPECT TO THE NATURE AND EXTENT OF COASTAL STATE JURISDICTION SHALL NOT BE AFFECTED OR PREJUDICED BY GIFA, EXCEPT WITH RESPECT TO CONSERVATION AND MANAGEMENT OF FISHERIES, THE POSITION OF BOTH PARTIES IS, OF COURSE, AFFECTED BY CONCLUSION OF A GIFA AS INDICATED ABOVE, FCMA INCLUDES PROVISION AUTHORIZING

AMENDMENT OF FISHERIES REGULATIONS TO CONFORM TO AN LOS
TREATY. EMBASSY'S ATTENTION IS DIRECTED TO ARTICLE XV,

PARA 2 OF GIFA, PROVIDING FOR REVIEW OF GIFA BY PARTIES
UPON CONCLUSION OF LOS TREATY.

3) DEPARTMENT HAS NOT RECEIVED A REQUEST FROM THE GOV
TO NEGOTIATE OR SIGN GIFA DURING PEREZ VISIT AND AT THIS
TIME USG HAS NOT MADE PLANS FOR SUCH A NEGOTIATION. EMB.
IS REQUESTED TO CLARIFY GOV INTENT IN THIS REGARD. IF
GOV IS INTERESTED IN CONCLUDING AN AGREEMENT DURING PEREZ
VISIT, DEPT. SHOULD BE INFORMED ASAP THROUGH DIPLOMATIC
CHANNELS IN WASHINGTON, SO THAT APPROPRIATE PREPARATIONS
CAN BE MADE.

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Message Attributes

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Sent Date: 27-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
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Document Source: CORE
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Drafter: SCH
Enclosure: n/a
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